UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/524,091	03/13/2000	Jennie Ching	1500P/BC999065	6651

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EXAMINER
KOENIG, ANDREW Y

ART UNIT	PAPER NUMBER
2611	

DATE MAILED: 10/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
Office Action Summary	09/524,091	CHING ET AL.
	Examiner	Art Unit
	Andrew Y. Koenig	2611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>24 January 2005</u>.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-20</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-20</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____ .

U.S. Patent and Trademark Office

PTOL-326 (Rev. 7-05)

Office Action Summary

Part of Paper No./Mail Date 20051016

DETAILED ACTION

Response to Arguments

1.   Applicant's arguments filed 24 January 2005 have been fully considered but they are not persuasive.

The applicant argues that McCoy and Gordon fail to teach "a central site system utilizing a plurality of designated control parameters as tunable limits, including uplink parameters, scheduler parameters, and storage parameters for tuning distribution of digital media data to the remote sites, as recited in varying form by the applicant in independent claims 1 and 8," see applicant's remarks on pg. 10, second paragraph.

The examiner disagrees; McCoy teaches a distribution system sending multimedia content and control information to remote downlink facilities via satellite transmissions (col. 4, ll. 55-60), wherein the control information sent via a satellite equates to a parameters as tunable limits, in that the control information is clearly tuned (in that sending data over satellites requires a modulated data carrier in order to effectively transmit the information). Gordon is introduced to teach that other forms of parameters are known in the art, such as storage parameters, in that Gordon teaches computing storage space on each of the devices (which is clearly a storage parameter) inter alia (col. 5, ll. 44-61).

It is recognized that the applicant argues that "a plurality of control parameters are provided that allow tuning of distribution in a DMD according to particular transmission needs... More particularly, data storage, scheduling, and uplink components are tuned through the control parameters," (see applicant's remarks pg. 8,

last paragraph - pg. 9, first paragraph). The examiner additionally recognizes this

distinctions but notes that the claimed "tunable limits" could be construed as argued by

the applicant, but are given their broadest reasonable interpretation in the art, which is a

"limits that can be tuned," in that the claims fail to positively recite the details as argued.

The applicant argues that the examiner points to Gordon's asset management

system as evidence of the benefit of using highly customized asset managements in the

video distribution system, the examiner disagrees; Gordon is using highly customized

asset management in a video distribution system, which is clearly a benefit of using the

system. The applicant has not advanced an argument to counter the examiner's

allegation.

The applicant further argues that "for McCoy, the data is already transmitted and

received by the remote site before storage considerations are made. Such activity not

only does not disclose a central site utilizing storage parameters for controlling

distribution of digital media data (i.e. data that is yet to be received), it teaches away

from such utilization." (see remarks pg. 9, last paragraph - pg. 10, first paragraph). The

examiner disagrees; in that the claims fail to recite any limitation discussing the order of

the data. Additionally, there is no evidence other than the assumed usage of the

system that it may teach away and the examiner notes that there is no explicit teaching

away in the reference for this limitation.

Claim Rejections - 35 USC § 103

2.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

3.   Claims 1 and 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable

over U.S. Patent No. 6,526,575 to McCoy et al. in view of U.S. Patent No. 5,920,700 to

Gordon et al.

               Regarding Claim 1, McCoy discloses a digital media distributor (Col. 4,

Lines 9-32) with tunable control of digital media data transmission comprising a

distribution network in the form of a satellite connection to at least one downlink

facility (See Figure 1 and Col. 4, Lines 9-13) and a central site system (100). The

central site system utilizes a plurality of designated control parameters as tunable

limits including uplink parameters such as broadcasting format (Col. 4, Lines 44-

51) and scheduling parameters such as weighting and priority of resources and

custom programming schedules (Col. 9, Lines 24-35, Col. 10, Lines 25-60 and

Col. 12, Lines 19-30) for controlling distribution of digital media data. The at least

one remote downlink facility (106) as stated above reads on the claimed plurality

of remote site servers for receiving digital media data transmissions from the

central site server via the distribution network according to the designated control

parameters. What is not disclosed, however, is a central site system utilizing

storage parameters. Gordon discloses an asset management system (See

Figure 2) using a schedule manager for distributing assets in an interactive

television system (Col. 4, Lines 38-39). Gordon further discloses allocating resources based on available storage space, population of overused or unused assets, and available capacity of the transmission line (Col. 5, Lines 45-61) in order to copy or delete an asset. Various weighting factors are used to determine trends (Col. 7, Lines 43-67). These weights and other parameters used to determine if an asset should be copied or deleted read on the claimed tunable storage parameters. Gordon is evidence that ordinary workers in the art would recognize the benefit of using highly customized asset management in a video distribution system. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system of McCoy with the storage parameters of Gordon in order to save disk space and network bandwidth by copying or deleting assets based on their usage and priority.

Regarding Claim 6, McCoy in view of Gordon disclose a system as stated above in Claim 1. Gordon further discloses deleting an asset based on a usage determination and a weighting or priority as stated above. This reads on the claimed retention period limits. Such weights and "non-use" periods (Col. 8, Lines 41-60) read on the claimed value limits.

Regarding Claim 7, McCoy in view of Gordon disclose a system as stated above in Claim 6. McCoy further discloses custom schedules for particular downlink facilities (Col. 10, Lines 53-60). This channel lineup data reads on the claimed playlist entries.

Regarding Claim 8, see Claim 1 above.

4.   Claims 2-3 and 9-16 are rejected under 35 U.S.C. 103(a) as being unpatentable

over McCoy et al. in view of Gordon et al. and further in view of U.S. Patent No.

6,253,079 to Valentine et al.

Regarding Claim 2, McCoy in view of Gordon disclose a system as stated

above in Claim 1. What is not disclosed, however, is that the uplink parameters

relate to transmission limits, value limits and time window limits. Valentine

discloses a satellite-based network optimization system (Col. 5, Lines 9-25) that

monitors load thresholds (Col. 5, Lines 33-48) to determine if a connection

should be accepted or rejected. These load thresholds read on the claimed

transmission limits. Further, these are expressed in percentage values (such as

75% allocation), which read on value limits. When a threshold is reached, a

retransmission time period is established based on the current satellite resource

load (Col. 5, Lines 49-67). This time period reads on the claimed time window

limits. Valentine is evidence that ordinary workers in the art would appreciate the

ability to a utilize various limits to control utilization of a satellite. Therefore, it

would have been obvious to one having ordinary skill in the art at the time the

invention was made to modify the system of McCoy in view of Gordon with the

tunable limits of Valentine in order to share resources on a satellite in a fair

manner to prevent overloading.

Regarding Claim 3, McCoy in view of Gordon and further in view of

Valentine disclose a system as stated above in Claim 2. Valentine discloses a

time window wait period for transmission as stated above. This reads on the

claimed uplink broadcast interval.

Regarding Claim 9, see Claim 2 above.

Regarding Claim 10, McCoy in view of Gordon and further in view of

Valentine disclose a system as stated above in Claim 9. Gordon further discloses

determining the popularity of an asset based on its usage (Col. 5, Lines 45-62)

as well as an expiration time (Col. 6, Lines 40-43) for determining when an asset

is to be deleted (Col. 8, Lines 41-60). These settings read on the claimed

retention period limits.

Regarding Claims 11 and 12, see Claim 2 above.

Regarding Claim 13, McCoy in view of Gordon and further in view of

Valentine disclose a system as stated above in Claim 9. Valentine further

discloses a time window wait period for transmission as stated above. This reads

on the claimed uplink broadcast interval.

Regarding Claim 14, McCoy in view of Gordon and further in view of

Valentine disclose a system as stated above in Claim 10. What is not disclosed,

however, is a history retention period. Official Notice is hereby taken that it is well

known in the art to limit the length of a log file stored on a computer. This reads

on the claimed history retention period. Therefore, it would have been obvious to

one having ordinary skill in the art at the time the invention was made to modify

the system of McCoy in view of Gordon and further in view of Valentine with the

history retention period of the well-known prior art in order to prevent the

system's storage systems from becoming completely filled with extraneous log data.

Regarding Claim 15, McCoy in view of Gordon and further in view of Valentine disclose a system as stated above in Claim 11. McCoy further discloses storing a transmission start time parameter for use in automating satellite transmission (Col. 10, Lines 25-30). This reads on the claimed playlist transmission lookahead.

Regarding Claim 16, see Claim 7 above.

5.   Claims 4-5 and 17-18 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over McCoy et al. in view of Gordon et al. and further in view of U.S. Patent No. 5,892,535 to Allen et al.

Regarding Claim 4, McCoy in view of Gordon disclose a system as stated above in Claim 1. Gordon further discloses determining the popularity of an asset based on its usage (Col. 5, Lines 45-62) as well as an expiration time (Col. 6, Lines 40-43) for determining when an asset is to be deleted (Col. 8, Lines 41-60). These settings read on the claimed retention period limits which are also value limits as they are defined by a value such as minimum copies allowed, weighting factors, how many times an asset has been accessed, etc. What is not disclosed, however, are transmission limits and time window limits. Allen discloses a system for distributing media programming from a server over a network (See Figure 2) wherein scheduling data (See Figure 15) is determined based on customer

orders, scheduling requirements and storage locations (Col. 15, Lines 50-61).

Further disclosed are transmission limits, which are used to monitor storage and

queue status of transmission buffer memories to slow or stop the rate of

transmission until data can be sent again (Col. 23, Lines 9-60). Allen further

discloses transmitting scheduled start and stop times (See Figure 15) of

commercial advertising breaks (See Figure 18 and Col. 32, Lines 46-48). This

reads on the claimed time window limits. Allen is evidence that ordinary workers

in the art would recognize the benefit of providing scheduling parameters to

defined commercial breaks for ad insertion as well as flow control for data

transmission in a media distribution system. Therefore, it would have been

obvious to one having ordinary skill in the art at the time the invention was made

to modify the system of McCoy in view of Gordon with the scheduling parameters

of Allen in order to provide increased flexibility in data transmission and ad

substitution.

Regarding Claim 5, McCoy in view of Gordon and further in view of Allen

disclose a system as stated above in Claim 4. What is not disclosed, however, is

a history retention period. Official Notice is hereby taken that it is well known in

the art to limit the length of a log file stored on a computer. This reads on the

claimed history retention period. Therefore, it would have been obvious to one

having ordinary skill in the art at the time the invention was made to modify the

system of McCoy in view of Gordon and further in view of Allen with the history

retention period of the well-known prior art in order to prevent the system's storage systems from becoming completely filled with extraneous log data.

Regarding Claim 17, McCoy in view of Gordon disclose a method for controlling digital asset distribution from a central site to a remote site via a media network as stated above in Claim 1. What is not disclosed, however, is managing distribution of digital advertisements to the remote sites. Allen discloses a system as stated above operable to facilitate ad insertion and distribution (Col. 15, Lines 17-48 and Col. 32, Lines 22-45). Allen is evidence that ordinary workers in the art would appreciate the ability to deliver advertising with media programming over a network. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system of McCoy in view of Gordon with the advertising of Allen in order to increase revenue through geographical targeting.

Regarding Claim 18, see Claim 17 above. What is not disclosed, however, is a history retention period. Official Notice is hereby taken that it is well known in the art to limit the length of a log file stored on a computer. This reads on the claimed history retention period. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system of McCoy in view of Gordon and further in view of Allen with the history retention period of the well-known prior art in order to prevent the system's storage systems from becoming completely filled with extraneous log data.

Regarding Claim 20, McCoy in view of Gordon and further in view of Allen disclose a method as stated above in Claim 17. Allen further discloses a playlist with entries as stated above. Gordon discloses a schedule manager for evaluating when to delete a file based on popularity of the asset, priority, weight and disk space, among other variables as stated above. The list of assets to be deleted is then placed in a queue (Col. 6, Lines 40-43). This list reads on the claimed purgelist entries. The retention period of the playlist or purgelist is variable based on the factors stated above. Since the function of the purgelist retention period and the playlist retention period are the same, that is, to remove stale data to make room for new data, Gordon full discloses the claimed retention periods.

6.   Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over McCoy et al. in view of Gordon et al. and further in view of Allen et al. and still further in view of Valentine et al.

Regarding Claim 19, McCoy in view of Gordon and further in view of Allen discloses a method as stated above in Claim 17. What is not disclosed, however, is an uplink broadcast interval. Valentine discloses a satellite-based network optimization system as stated above in Claim 2. that monitors load thresholds (Col. 5, Lines 33-48) to determine if a connection should be accepted or rejected. Further, these are expressed in percentage values (such as 75% allocation), which read on value limits. When a threshold is reached, a retransmission time

period is established based on the current satellite resource load (Col. 5, Lines 49-67). This time period reads on the claimed uplink broadcast interval. Valentine is evidence that ordinary workers in the art would appreciate the ability to a utilize various limits to control utilization of a satellite. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system of McCoy in view of Gordon and further in view of Allen with the tunable limits of Valentine in order to share resources on a satellite in a fair manner to prevent overloading.

Conclusion

7.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later. than SIX MONTHS from the mailing date of this final action.
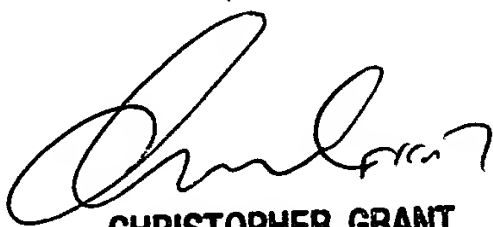
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew Y. Koenig whose telephone number is (571) 272-7296. The examiner can normally be reached on M-Th (7:30 - 6:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Christopher Grant can be reached on (571) 272-7294. The fax phone

number for the organization where this application or proceeding is assigned is 571-

273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

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